

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. AMBROCIO CANO Y PINEDA, DEFENDANT AND APPELLEE.

G.R. No. L-19660. May 24, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal, taken by the prosecution, from an order of the Court of First Instance of Pampanga.

On or about August 2, 1961, the Provincial Fiscal of Pampanga filed with said court an information accusing defendant-appellee Ambrocio Cano y Pineda of the crime of damage to property with multiple physical injuries, thru reckless imprudence, alleging:

"That on or about the 21st day of September, 1900, on the National Highway at San Isidro, municipality of San Fernando, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above named accused Ambrocio Cano y Pineda, being then the driver and person in charge of La Mallorca Pambusco bus with body No. 846, Plate No. TPU-23177 (Pampanga '60), in utter disregard of traffic rules and regulations and without exercising due precaution to avoid accident to persons and/or damage to property, and by driving at a speed more than that allowed by law and on the wrong side of the road, did then and there willfully, unlawfully and feloniously drive, manage and operate said vehicle in a careless, negligent and imprudent manner, causing as a result thereof the said bus driven by him to hit and bump a Philippine Rabbit Bus with body No. 257, bearing Plate No. TPU-25589 (Tarlac '60), then driven by Clemente Calixto y Onia, thereby causing damages to the said Philippine Rabbit Bus in the amount of P5,023.55, to the damage and prejudice of the owner, the Philippine Rabbit Bus Lines, Inc., in the said amount of P5.023.55. Philippine Currency, and on the same occasion inflicting physical injuries to the passengers of said buses, namely, Francisco Feliciano, Hilario Pasamonte, Linda Ongria, Lorenzo Calixto, whose physical injuries, barring complications, required and will require medical attendance for a period of not less than three (3) months; Regina Mendoza de Gacuain, Virginia Camba, Francisco Guevarra, George Sebastian, Francisco Rabago, Oscar Favorito, Lida Toledo, whose physical injuries, barring complications, required and will require medical attendance for a period ranging from one week to one month; Adelaida Buenconsejo Vda. de Shaup. Eulogio Catalio, Marina. Gonzales, Abraham Serrano, Epifanio Payas, Sepranio Fomtanilla, Pedro Bingeang, Tomas Ortega, Mateo Estaris, Andres Espinosa, Ligaya Garcia, Romeo Rivera, Mateo Estaeio, Jaime Castillo, Clemente Calixto, Dtdicacion San Juan, Antonio Calixto, Teofilo Raon, Francisco Mallari, Alfonso Aquino, Ksmeralda Cayasi, Salvacion Vda. de Ortega, Patronicio Caasi, Lily Ortarsa, Eulogio Canlas, Esperanza de la Cruz, Beinita Cesar, Laulita Batalia, Miguela Quilay, Benjamin Tiglao, Ligaya Garcia Bindua, Marlita Balmonte, Geroniimo Bnones, Juan Velasco, Tomasa Mateo, and Bobby Calhoun, whose physical injuries, barring complications, required and will require medical attendance for a period ranging from seven to nine days, and incapacitate said injured persons from performing their customary labor for the same period of time, respectively.

"All contrary to law."

Upon arraignment^[1] defendant entered a plea of not guilty. Months later,^[2] he filed a motion to quash the information upon the ground:

"1. That the crime charged, slight physical injuries thru reckless imprudence, lies already prescribed;

"2. That this: Honorable Court has no jurisdiction of the crime charged, slight/ physical injuries thru reckless imprudence; and

"3. That the crime of slight physical injuries thru reckless imprudence cannot be complexed with damage to property, serious and less serious physical injuries thru reckless imprudence";

After due hearing, the lower court issued an order^[3] holding that, "without discussing whether or not this particular misdemeanor of slight physical injuries"—through reckless imprudence—"has prescribed * * * it is clear that said misdemeanor cannot validly be complexed with grave or less grave felonies", and, accordingly, granting the motion to quash and ordering the prosecution "to amend the information within ten (10) days" from notice, by "deleting therefrom all reference to slight physical injuries". A reconsideration of this order having been denied, the prosecution interposed the present appeal.

The order appealed from is predicated upon the theory that the offense of slight physical injuries thru reckless negligence cannot be complexed with that of damage to property with multiple physical injuries thru reckless imprudence, because "misdemeanors" may not, under Article 48 of the Revised Penal Code, be complexed with grave or less grave felonies.

However, the information herein does not purport to complex the offense of slight physical injuries with reckless negligence with that of damage to property and serious and less serious physical injuries thru reckless imprudence. It is merely alleged in the information that, thru reckless negligence of the defendant, the bus driven by him hit another bus causing upon some of its passengers, serious physical injuries, upon others less serious physical injuries and upon still others slight physical injuries, in addition to damage to property. Appellee and the lower court have seemingly assumed that said information thereby charges two offenses namely: (1) slight physical injuries thru reckless imprudence; and (2) damage to property, and serious and less serious physical injuries, thru reckless negligence—which are sought to be complexed. This assumption is, in turn, apparently premised upon the predicate that the effect or consequence of defendant's negligence, not the negligence itself, is the principal or vital factor in said offenses. Such predicate is not altogether accurate.

As early as July 28, 1955, this Court, speaking thru Mr. Justice J.B.L. Reyes, had the occasion to state, in *Quizon vs. Justice of the Peace of Bacolor, Pampanga* (97 Phil., 342), that:

"The proposition (inferred from Art. 3 of the Revised Penal Code) that 'reckless imprudence is not a crime in itself but simply a way of committing it and merely determines a lower degree of criminal liability' is too broad to deserve unqualified assent. There are crimes that by their structure can not be committed through imprudence: murder, treason, robbery, malicious mischief, etc. In truth, criminal negligence in our Revised Penal Code is treated as a mere quasi-offense, and dealt separately from wilful offenses. It is not a mere question of classification or terminology. In intentional crimes, the act itself is punished; in negligence or imprudence, what is principally penalized is the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight; the 'imprudencia punible'. Much of the confusion has arisen from the common use of such descriptive phrases as 'homicide through reckless imprudence'; and the like; when the strict technical offense is, more accurately, 'reckless imprudence resulting in homicide'; or 'simple imprudence causing damages to property'.

"Were criminal negligence but a modality in the commission of felonies, operating only to reduce the penalty therefor, then it would be absorbed in the mitigating circumstances of Art. 13, specially the lack of intent to commit so grave a wrong as the one actually committed. Furthermore, the theory would require that the corresponding penalty should be fixed in proportion to the penalty prescribed for each crime when committed wilfully. For each penalty for the wilful offense, there would then be a corresponding penalty for the

negligence variety. But instead, our Revised Penal Code (Art. 365) fixes the penalty for reckless imprudence at arresto mayor maximum, to prision correccional minimum if the wilful act would constitute a grave felony, notwithstanding that the penalty for the latter could range all the way from prision mayor to death, according to the case. It can be seen that the actual penalty for criminal negligence bears no relation to the individual wilful crime, but is set in relation to a whole class, or series of crimes".

Thirdly, regardless of whether the issue adverted to above should be decided in the affirmative or in the negative, the proper procedure for the lower court was to reserve the resolution thereof until after the case has been heard on the merits, when decision is rendered thereon, there being no question that the court has jurisdiction and can properly try the defendant for damage to property and serious or less serious physical injuries thru reckless negligence. It may not be amiss to add that the purpose of Article 48 of the Revised Penal Code in complexing several felonies resulting from a single act, or one which is a necessary means to commit another, is to favor the accused by prescribing the imposition of the penalty for the most serious crime, instead of the penalties for each one of the aforesaid crimes, which, put together, may be graver than the penalty for the most serious offense.

Fourthly, from the viewpoint both of trial practice and justice, it is, to say the least, doubtful whether the prosecution should split the action against the defendant, by filing against him several informations, namely, one for damage to property and serious and less serious physical injuries, thru reckless negligence, before the court of first instance, and another for slight physical injuries -thru reckless negligence, before the justice of the peace or municipal court. One thing is, however, certain. Such splitting of the action would work unnecessary inconvenience to the administration of justice in general! and to the accused in particular, for it would require the presentation of substantially the same evidence before two different courts, the municipal court and the court of first instance. Worse still, in the event of conviction in the municipal court and appeal to the court of first instance, said evidence would still have to be introduced once more in the latter court.

Wherefore, the order appealed from is hereby set aside and the case remanded to the lower court for trial on the merits and the rendition of the judgment that the facts proven and the applicable law may warrant, with the costs of this instance against the defendant-appellee. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar and Sanchez, JJ., concur.

Order set aside, case remanded for further proceedings.

[1] On August 23, 1961.

[2] On January 18, 1962.

[3] On March 6, 1962.

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